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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

LEAGUE OF CONSERVATION VOTERS , et al.,)	
)	
Plaintiffs,)	Case No. 3:17-cv-00101- SLG
)	
v.)	
)	
DONALD J. TRUMP , et al.,)	
)	
Defendants.)	
_____)	

**DEFENDANTS' MOTION TO DISMISS PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 12(b)**

One month before President Donald J. Trump's inauguration, President Barack H. Obama withdrew most of the Arctic Outer Continental Shelf ("OCS"), as well as other areas of the OCS, from oil and gas development. On April 28, 2017, President Trump issued the Executive Order Implementing an America-First Offshore Energy Strategy, supporting increased domestic energy production including from the OCS while also "ensuring that any such activity is safe and

environmentally responsible." Executive Order 13795 of April 28, 2017, 82 Fed. Reg. 02815 § 1 (May 3, 2017) (Exhibit 1). Consistent with this policy, the President modified President Obama's withdrawal of certain areas of the OCS from leasing, thus allowing the Secretary of the Interior to include those areas in future lease sales. *Id.* § 5. President Trump's action is fully consistent with prior presidential decisions under the statute and a valid exercise of his authority.

Plaintiffs allege that the President's exercise of the broad discretion afforded him under the Outer Continental Shelf Lands Act ("OCSLA"), 43 U.S.C. §§ 1331-1356b, violated the separation of powers instituted in the Constitution and exceeds his authority as granted by the statute itself. Plaintiffs' claims must be dismissed for at least the following four reasons.

First, Plaintiffs have failed to identify any private right of action or waiver of sovereign immunity that would allow the Court to review their claims. Without citation to a single authority, the Complaint baldly asserts Plaintiffs "have a right of action." This allegation is unsupported by the law and, therefore, Plaintiffs have failed to assert a claim upon which relief can be granted.

Second, longstanding respect for the separation of powers prohibits the relief the Plaintiffs seek. Plaintiffs ask for a declaration as to the legality of the President's actions. Courts have long held that such declarations against co-equal branches of the government are improper and unavailable because they represent an unwarranted violation of the separation of powers. Therefore, Plaintiffs have not stated a claim for relief that can be granted.

Third, Plaintiffs claims are unripe because any actual oil and gas development within the affected area could only occur after further agency action, and any such action would be subject to public comment and, if properly sought, judicial review. The doctrine of ripeness requires a

more developed factual record with concrete proposals regarding oil and gas development before the court can resolve Plaintiffs' allegations of harm.

Fourth, Plaintiffs lack standing to bring these claims because none of the areas at issue in this case has been identified for oil and gas exploration or leasing activities. Plaintiffs, therefore, cannot demonstrate a specific harm to any single member of their organizations. In addition, Plaintiffs' broad concerns regarding the way in which the government is administered are too general to give rise to standing because they affect all citizens equally and therefore are not particular to the Plaintiffs.

For these reasons, and as more fully set forth in the attached Memorandum in Support of Defendants' Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b), Defendants respectfully request that the Plaintiffs' claims be dismissed in their entirety.

Dated: June 30, 2017

Respectfully submitted,
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/s/
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Certificate of Service

I hereby certify that on June 30, 2017, I filed the foregoing with the Clerk of Court using the CM/ECF system, which will provide service to all attorneys of record.

_____/s/_____
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